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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,649	09/23/2003	Eric R. Kurtycz	62436A (1062-018)	2083
25215	7590	11/09/2005		
DOBRUSIN & THENNISCH PC 29 W LAWRENCE ST SUITE 210 PONTIAC, MI 48342				
			EXAMINER MCPARTLIN, SARAH B	
			ART UNIT 3636	PAPER NUMBER

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/668,649

Applicant(s)

KURTYCZ ET AL.

Examiner

Sarah B. McPartlin

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1,3-12 and 14-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-28 is/are allowed.
- 6) ☒ Claim(s) 1,3-12,14-20,22 and 24-25 is/are rejected.
- 7) ☒ Claim(s) 21 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3-12, 14-16, 22 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 12 each recite "one or more of the channel forming ribs along with one or more of the tubular structures extend independently or cooperatively horizontally substantially entirely from a first side of the first panel to a second side of the first pane." This phrase is not well understood. Did Applicant intend to state that the tubular structures, formed by the cooperation of the channel forming ribs and the main wall, extend horizontally substantially entirely from a first side of the first panel to a second side of the first panel? Clarification is required.

Claims 3-11, 14-16, 22 and 24 are rejected as being dependent upon a rejected base claim.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 17-18 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leistra (5,782,537) in view of Nagamitsu et al. (US 2002/0060492). Leistra discloses an automotive seatback system (Figure 2) comprising: a first panel (34) having a main wall (56); a plurality of primary planar ribs (52)(40)(42) positioned upon the first panel (34) wherein: at least one of the primary planar ribs (40)(42) extends about the periphery of the first panel (34); at least two of the primary planar ribs (52) extend across the main wall (56) in a criss-cross pattern; and the first panel (34) and the primary planar ribs (52)(40)(42) are "integrally formed of a homogenous material" (column 3, lines 10-11); a plurality of attachment locations located at rod (38) and defined upon the first panel (34) at the base of the first panel (34); a plurality of channel forming ribs (44)(44) extending along the main wall (56) of the first panel (34) and form a tubular structure in conjunction with the main wall, at least one of the channel forming ribs (44) extending at least partially between two of the plurality of attachment locations defined at rod (38). Leistra further discloses a second panel (34) having a main wall (56) located laterally adjacent to the first panel fro spanning a lateral distance of the seat back system as is best depicted in Figure 2 and a plurality of channel forming ribs (44) extending along the main wall (56) of the second panel (34). The first and second panels (34) are part of a seat back within an automotive vehicle.

As disclosed above, Leistra reveals all claimed elements with the exception of attachment locations including a plurality of secondary planar ribs.

Nagamitsu discloses attachment location (17) located along the periphery of seat back (5). Each attachment location (17) includes a plurality of ribs (14).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add a plurality of ribs to the attachment locations (24) disclosed by Leistra. Such a modification would further reinforce the attachment location area and prevent the seat back from pulling away from a structure to which it is attached.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leistra (5,782,537) in view of Nagamitsu et al. (US 2002/0060492) and in further view of Rink (5,092,942). Leistra, as modified, discloses all claimed elements with the exception of a seat back system made out of a plastic material selected from the group set forth in claim 3.

Rink teaches the use of a polycarbonate/acrylonitrile-butadiene-styrene blend to construct a back support structure (column 1, lines 44-45).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the claimed material as taught by Rink. This material allows for the economical mass production of the backrest support structures (column 2, lines 41-42).

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leistra (5,782,537) in view of Nagamitsu et al. (US 2002/0060492) and in further view of Krassilnikov (US2003.0197296). As disclosed above, Leistra, as modified, reveals all

claimed elements with the exception of a channel forming rib formed by gas assist injection molding.

Krassilnikov discloses a method and apparatus for producing molded "seat backs" (paragraph [124]) with a gas assisted molding station.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to form the seat back system disclosed by Leistra with the gas assisted injection molded process taught by Leistra. Such a method is a low cost method of forming consistently high quality products.

#### ***Allowable Subject Matter***

7. Claims 26-28 allowed.
8. Claims 21 and 23 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 1, 3-12, 14-16, 22 and 24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

#### ***Response to Amendment/Arguments***

10. The amendment filed on August 25, 2005 has been considered in its entirety. Remaining issues are detailed in the section above.

The resubmitted drawings have been received and are acceptable.

In response to applicant's argument that Leistra and Nagamitsu et al. are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Nagamitsu discloses a molded backrest with attachment locations. The Examiner maintains that it would have been obvious to incorporate the reinforced portions taught by Nagamitsu into the seat back disclosed by Leistra. Both reference show seat back with ribs for attaching to a seat panel. The fact that the Nagamitsu et al. backrest is not intended to be used in a vehicle does not preclude it from having obvious teaching, which could be incorporated into an automotive seat back.

Applicant further argues that it would not have been obvious to combine Leistra, as modified, with the teachings of Krassilnikov. Krassilnikov teaches the use of a molding station for forming molded parts of seats. The Examiner therefore believes that Krassilnikov is reasonably pertinent to the particular problem at hand. The claim requires that gas assist injection folding form the ribs. In essence this a product by process claim. As long as the reference demonstrates the structural product the process used to make the product is obvious. Krassilnikov was used to demonstrate how gas is used in molding articles. Gas in the Krassilnikov reference is used to

remove the product from the mold. However this process is still considered to be gas assist injection molding since gas is used in the molding process.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBM  
November 7, 2005

  
**Peter M. Cuomo**  
Supervisory Patent Examiner  
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